

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO**

SANDRA RODRÍGUEZ COTTO;
RAFELLI GONZÁLEZ COTTO,

Plaintiffs,

v.

Civil Action No. _____

WANDA VÁZQUEZ GARCED, Governor of
Puerto Rico; DENNISE NOEMÍ
LONGO QUINONES, Secretary of
Department of Justice of Puerto Rico;
PEDRO JANER, Secretary of Puerto Rico
Department of Public Safety; HENRY
ESCALERA, Puerto Rico Police
Commissioner, all in their official capacities,

Defendants.

DECLARATION RAFELLI GONZÁLEZ COTTO

I, Rafelli González Cotto, declare as follows:

1. I am a resident of Bayamón, Puerto Rico.
2. I am 32 years old and competent to make this declaration.

I. Professional Experience

3. I am an independent journalist with over 10 years of experience in print, magazines, radio, TV and digital media in Puerto Rico. I am also a lawyer and notary public, licensed in Puerto Rico.

4. I have worked with several newspapers on the island, such as *El Nuevo Día*, *Caribbean Business* and *CB en Español*, where I was the Digital Editor. Subsequently, I was appointed as the Digital Executive Editor at Latin Media House, a publishing house, where I

directed the digital platforms of six publications, two newspapers and four magazines, for approximately three years.

5. In 2017, while serving as the Digital Editor for *Caribbean Business* and *CB en Español*, I participated in the publication of several digital stories related to the Whitefish Energy scandal. Puerto Rico Electric Power Authority (PREPA) awarded a \$300 million contract to rebuild Puerto Rico's electric grid to a small private company with limited experience and only two registered employees, instead of requesting cooperation through the mutual assistance program of the American Public Power Association (APPA). The contract also prohibited the government from auditing the "cost and profit elements" of the contractor's labor rates, which was highly unusual. The story generated significant controversy, both in Puerto Rico and in the United States. PREPA subsequently canceled the contract at the request of then-Governor Ricardo Rosselló.

II. Investigative Reporting: COVID-19 Public Health Emergency

6. I have written numerous news articles about the COVID-19 public health emergency, which have been published in different news outlets around the island. My articles have reported on conditions during the public health emergency, as well as the government's emergency and curfew orders.

7. In one article, I reported that certain companies had received multimillion dollar government contracts for "rapid test kits" to detect the presence of COVID-19 antibodies, despite the fact that these companies had little experience managing medical supplies. My reporting showed that these companies had close ties to Governor Wanda Vázquez Garced's New Progressive Party.

8. In another article, published in collaboration with *NotiCel*, the most widely read digital newspaper on the island, I revealed that the case fatality rate published by the Health Department was not calculated in accordance with generally accepted practices, resulting in a significant underestimation of the fatality rate. Half an hour after the article was published, the Health Department removed the information from its website.

9. I also published another article with *NotiCel* about attempts by seven powerful businessmen to persuade to Governor Vázquez and two agency heads to authorize the gradual reopening of businesses in the midst of the COVID-19 pandemic, despite the absence of reliable data about how reopening would affect the public health crisis. The article was based on information and documentary evidence provided to me by an anonymous source.

III. Fear of Prosecution Under 25 L.P.R.A. §§ 3654(a) and (f)

10. I continue to engage in investigative reporting focused on the COVID-19 pandemic and the government's response.

11. A couple months ago, I heard there was a chain message about a rumored executive order to close down supermarkets, gas stations and other businesses because of the COVID-19 emergency. I later learned that the government was going to prosecute a pastor from the Dorado municipality under 25 L.P.R.A. § 3654(a) for allegedly sharing false information about the shutdown order to cause confusion.

12. I am concerned that I, too, could be prosecuted under 25 L.P.R.A. §§ 3654(a) and (f) for my independent news reporting.

13. I often rely on my sources to provide me with the information necessary to timely report on newsworthy stories during the COVID-19 public health emergency. My sources are

essential to my reporting, especially because official data about the public health emergency is often unavailable or unreliable.

14. Although I consistently follow standard journalistic practices to factcheck my stories, I recognize that it is always possible that my stories will contain inadvertent inaccuracies, including inaccuracies that only the government could identify and correct. I also recognize that the government may dispute the accuracy of one of my stories, even though my reporting is in fact accurate. Under either circumstance, I fear I could be prosecuted under 25 L.P.R.A. §§ 3654(a) and (f).

15. My fear of prosecution under 25 L.P.R.A. §§ 3654(a) and (f) has chilled my own reporting.

16. My sources have also stopped sharing information as usual, because they are afraid that I might be forced to reveal their identities if I am prosecuted under 25 L.P.R.A. §§ 3654(a) and (f). For instance, I recently heard from a source that their fellow scientists are afraid that the government might take legal action against them if it is revealed that they disclosed information about the COVID-19 public health emergency in Puerto Rico.

17. The chilling effect imposed by the threat of prosecution under 25 L.P.R.A. §§ 3654(a) and (f) has already made my job much harder. For example, I have been hindered in my attempts to investigate and report on several mysterious multimillion dollar contracts awarded by public agencies. The Office of the Comptroller recently lifted the requirement for the registration of public contracts while Governor Vázquez's curfew remains in effect. As a result, I and other journalists must obtain this information through other investigative strategies, such as reliance on our sources. But my sources are afraid to share information with me. Furthermore, even when I am able to confirm the existence of a suspicious contract through two independent sources, I am

afraid that we could be prosecuted under 25 L.P.R.A. §§ 3654(a) and (f), because the government has not confirmed the existence of the contract.

18. I also do not know what several key terms in 25 L.P.R.A. §§ 3654(a) and (f) mean. For example, I do not know what amounts to a “non-existing abnormality” under 25 L.P.R.A. § 3654(a). Similarly, I do not know what constitutes an intent “to cause confusion, panic, or public hysteria” under 25 L.P.R.A. § 3654(f).

19. I worry that any reports the government does not approve may be subject to prosecution under this provision.

20. In recent years, Puerto Rico has suffered a number of different emergency situations, including the catastrophe caused by Hurricane Maria in 2017, the earthquakes that shook the southern part of the island in January of this year, and now the COVID-19 public health emergency. The Puerto Rican government has consistently attempted to control the information available to the public.

21. Between April 17 and May 17, Governor Vázquez has barely appeared at two official press conferences to speak about the virus. In her last appearance on May 12, she spent five minutes answering questions from the press during an improvised press conference that lasted less than 20 minutes. The government is not providing the public the information that it needs to understand the public healthy emergency and hold the government accountable.

22. The mere threat of prosecutions under 25 L.P.R.A. §§ 3654 will inevitably cause journalists, and other members of the public, to self-censor when reporting information that is damaging to the government’s political interests. But this information is necessary for the decision-making of our citizens.

Pursuant to U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed this 19th day of May 2020.

By:  _____
Rafelli González Cotto